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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/004,057      | 11/02/2001  | Lawrence E. Leahy    | 16524-3             | 6682             |

7590

06/06/2003

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EXAMINER

NGUYEN, CHI Q

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 06/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/004,057

Applicant(s)

LEAHY, LAWRENCE E.

Examiner

Chi Q Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: On page 5, line 2 of the specification "shown in Figure 7", there is no such figure 7 in the application.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 11 and 23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, the necked-down section has a maximum diameter approximately equal in diameter to the first end and the second end.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-23, 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leahy (US 6,308,927) in view of Herrstrom (US 4,737,048).

Leahy discloses breakaway sign post connector 14 for attaching a sign support member 16 comprising a shear member comprising a bolt 24 having a first threaded end 28, a second threaded end 30, a bushing 26 supporting necked down section 50. The bushing 26 comprises a substantially circular opening extending there through (fig. 1), the shear member 24 having a bolt, an annular shoulder 34, which comprises a top surface 36 including a plurality of ribs 54 engage first side 42 of support plate 40, an anchor member 12 comprising an anchor plate 20, a ground member 18 of various sizes, shapes (col. 2, line 40-43), the anchor plate 20 coupled to the ground member 18, the anchor plate comprising a threaded opening. The support member 16 having a support plate 40 with an aperture 46 coupled to a sign support member 38, a first, second flanged, serrated nuts 32, 48. (See figs. 1-5, cols. 2-4).

Leahy does not disclose expressly a helical spring surrounding the shear member and supporting the necked-down section and contacting the anchor plate, the first end wall of the anchor plate coupled to the ground member to form a recess within the first end of the ground member.

Herrstrom teaches resilient sign post attachment comprising a post 12, a ground member 11, a first connecting plate 34, a second connecting plate 14 supporting to helical springs 51, 52, the connecting plate 14 having a first end wall 15 coupled to the ground member 11 at the recess of the two forming sidewall 16, 17. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine

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Leahy with Herrstrom for the helical springs and the ground member connecting to the anchor plate at the recessed forming walls. The motivation for doing so would have been to provide resilient to the signpost to return to an upright position when the vehicle is no longer in contact with the signpost.

With regards to claims 3, 7, and 8 Leahy and Herrstrom teach the structural elements for the signpost connector except for the spring outer diameter substantially equal to the bushing inner diameter and spring inner diameter substantially equal to the shoulder outer diameter. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to choose the size of the helical spring for desirable application such as fitting into the shoulder and the bushing particularly, since such a modification would have involved a mere change in the size of a component is an obvious matter of design choice. *In re Rose, 105, USPQ 237 (CCPA 1955)*. The motivation for doing so would have been to provide the right sizes for the helical spring so it can surrounding the shoulder and housing within the bushing.

With regards to claim 22, Leahy and Herrstrom teach the structural elements for the signpost connector except for the bushing is generally square-shaped. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the bushing in square-shaped is considered as matter of design choice. The motivation for choosing different shapes for the bushing such as square or round would have been to use in more desirable applications.

6. Claims 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leahy (US 6,308,927) in view of Herrstrom (US 4,737,048).

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Leahy and Herrstrom teach the structural elements for the signpost connector as stated in paragraph 5. Leahy and Herrstrom do not teach expressly the method of assembly as claimed by the applicant, examiner considers this to be the obvious method of setting up applicant's device.

**Conclusion**

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ellsworth (US 6,540,196), Lizakowski (US 5,354,144), Daggs (US 4,565,466), Strizki (US 3,967,906), Scott (US 3,521,413).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chi Q. Nguyen whose telephone number is (703) 605-1224, Monday-Thursday (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (703) 308-0839. The fax number for the organization where this application or proceeding assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

CRN  
5-30-03

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600